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I. THE LAND AND THE PEOPLE

1. Zambia acquired independence in 1964 from Britain and is a multiracial and multicultural country. It has seven major language groups which roughly corresponds to the number of provinces. The other two provinces are urban provinces which brings the total to nine. The country has 52 administrative districts, which are demarcated by size of population. On the basis of this criterion two more districts have qualified for district status, but this status will not be formalized until resources for their operations become available.

A. Fact sheet

Area in 1,000 sq. km	753
Population 1992	8.2 million
Population density (persons per sq. km) (1992)	10.0
Government	Republic
Religion (traditional religion)	Christianity (96%)
Language (official)	English

B. Economy and development

GNP per capita (1989)	US$ 390
Annual growth rate in GNP per capita (1991)	(-1.8)
Total external debt as a share of GNP (1989)	158.8%
Debt servicing as a share of total export revenue (1989)	11.3%
Total aid transfers in 1990 (US$ million) bilateral and multilateral	551.8

	Actual 1991	Pledged 1992
	(US dollars)	
Total bilateral aid including		
EEC and ADB	576.1	871.7
World Bank arrears	100.3	4.6
Balance of payments support	144.5	433.0
Commodity assistance	76.1	57.6
Food aid	5.6	53.6
Project financing	249.6	322.9

C. World Bank

	Actual 1991	Pledged 1992
	(US dollars)	
Project financing	10.0	30.0
Balance of payments support	202.0	240.0
Grand Total	788.1	1 126.40

D. Social indicators

Annual growth rate of population (1985-1989)	3.2%
Share of population under 15 years and over 64 years (1980)	52%
Urban population as share of total population (1990)	48%
Female-headed households	26-30%
Life expectancy (1990) (years)	54.4
Men	52
Women	55.5
Infant mortality per 1,000 births (1990)	100
Illiteracy - share of population over 15 years (1985)	23.4%
Men	15.8%
Women	32.6%

	per cent of total
Central Government expenditure (1989)	
Military	0.0 (N.A.)
Education sector	8.6
Health sector (1992)	10.0
Index of per capita food production (1987-1989) (1979-1981 = 100)	97
Daily per capita calorie consumption (as per cent of requirements)	93

II. GENERAL POLITICAL STRUCTURE

2. Zambia is a unitary State with a President elected by direct franchise. Previously, provinces were administered by a member of the Central Committee and districts were administered by Governors, both officials were appointed by the President and had to be members of UNIP the only official political party. Now provinces are run by a Deputy Minister, who must be a Member of Parliament, and districts are run by a mayor elected from among the local councillors. The local government elections were scheduled for 30 November 1992.

3. Administrators in the various provinces and districts as well as government departments are appointed on merit by the Civil Service Commission. This has led to cultural diffusion with many administrators and teachers knowing more than one local language because of being posted to areas not of their origin, it has also led to inter-marriages between tribes. English, however, has been retained as the official language.

4. Prior to Zambia's independence two social evils were visible, namely racial discrimination and tribalism based on the South African model of apartheid. In the area of social advancement, residence and political career, racial discrimination was practised and workers in urban areas were grouped on the basis of tribal origin. It would be truthful to say that these practices have been dispensed with and that Zambia is an example of a multicultural and multiracial country. Zambia has the most racially and culturally mixed Cabinet and Parliament in Africa. Anybody without regard to race or tribal origin is free to stand for any political office in the land.

5. One area must be mentioned though regarding the status of chiefs. During the Second Republic (i.e. the "One Party State" era) there was a tendency to politicize this position. The present Government wants to retain this position more as a cultural entity to avoid the embarrassment of chiefs losing an election in their own areas. Chiefs can stand for elections, but they have lost their political status of belonging to the House of Chiefs. However, they still retain their arbitrative powers in matters relating to land and civil matters in their own areas (i.e. you cannot get land title deeds in a chief's area without his consent. Chiefs normally settle civil disputes under customary law).

6. Zambia is a land-locked country bordered by Zimbabwe, Botswana, Namibia, Angola, Zaire, Tanzania, Mozambique and Malawi. As a result, from the beginning Zambia adopted an anti-colonial and an anti-apartheid stand. As a consequence of its geopolitical location, Zambia has been host to refugees from neighbouring countries fighting for independence and those fighting to end injustice, namely: Zimbabwe, Namibia, Angola, Mozambique and South Africa. As a result of this, Zambia has in the past been a victim of military incursions from the colonial regimes and South Africa aimed at destroying its infrastructure and has experienced serious disruptions to its transport arteries for both imports and exports because of its reliance on routes to the sea through Angola, Mozambique and South Africa via Zimbabwe. Zambia now relies on the Tazara rail, built with Chinese aid as a joint venture between Tanzania and Zambia, to have access to the sea through the northern route.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

7. The basic framework of human rights protection in Zambia is provided by the Constitution of Zambia Act, 1991, part III entitled "Protection of Fundamental Rights and Freedoms of the Individual" (arts. 11-32). The Constitution still remains the foundation of all official practices, it defines the powers and procedures to be followed in the execution of official duties.

8. Article 11 makes general provisions for the rights to life, liberty, security of the person and protection of the law; freedom of conscience, expression, assembly, movement and association; the protection of young persons from exploitation; and protection for the privacy of the home and other property and from deprivation of property and without compensation. These rights are elaborated in subsequent articles. Other articles prohibit slavery (art. 14), torture and inhuman or degrading punishment or other like treatment (art. 15) and arbitrary search and entry (art. 17). Freedom of conscience, including freedom of thought and religion is guaranteed in article 19, freedom of expression is elaborated in article 20, freedom of assembly in article 21 and freedom of movement in article 22.

9. Article 23 deals with protection against discrimination, either on the ground of "race, tribe, sex, place of origin, marital status, political opinions, colour or creed ...". Discrimination is forbidden either in its express form in law or in its effect whether in the execution of public functions or in the functions of any public authority. Exceptions only exist in respect of non-citizens, and to matters of personal law such as marriage, divorce, burial, etc. Here a distinction has been drawn between political and civil rights and private law to indicate the abrogation to the right to protection from discrimination.

10. Derogation of fundamental rights and freedoms is provided for in article 25. These rights may be restricted under conditions of war and when a state of emergency is in force, provided that it is shown that the measures so taken were necessary to deal with the situation in question. Other circumstances in which derogation may apply is in the execution of a court order in which a person has been convicted. Freedom of conscience, association, and arbitrary search and confiscation of property may be limited in the interests of defence, public safety, public morality or public health.

A. International Covenants

11. In terms of international human rights instruments, Zambia acceded to the International Covenant on Economic, Social and Cultural Rights (CESCR) and the International Covenant on Civil and Political Rights and its Optional Protocol on 10 April 1984. Zambia, however, made reservations with respect to article 13 (2) (a) of the CESCR; the Government accepted the principle of universal access to primary education and that it would undertake to implement it, but would not guarantee its full application because of financial constraints.

12. Other human rights instruments Zambia has acceded to, include the International Convention on the Elimination of All Forms of Racial

Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Elimination of All Forms of Discrimination Against Women, the Slavery Convention and the Protocol amending the Slavery Convention, signed in Geneva on 25 September 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery and the Convention on the Nationality of Married Women.

13. It has also acceded to the Convention relating to the Status of Stateless Persons and the Convention relating to the Status of Refugees but has retained some reservations: it has accepted articles dealing with the rights to national treatment in elementary education as recommendations, not binding obligations; it has reserved the right to designate the place of residence for refugees and stateless persons; it is not bound to issue travel documents with the right of return in cases where a country of second asylum has shown willingness to accept the persons in question; and with regard to expulsion it is not willing to give treatment more favourable than that accorded to aliens generally. Zambia has yet to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, although this issue was under review. The current President of Zambia, Mr. Frederick Chiluba, on his visit to Geneva, promised he would ratify protocols by the International Committee of the Red Cross related to tracing missing or imprisoned persons during the liberation wars in neighbouring countries.

B. System of governance

14. The present Government intends to review the Constitution with a view to making it more democratic. Considerable democratic changes, however, were already reflected in the Constitution of Zambia Act of 24 August 1991: Cabinet Members are to be selected from amongst the 150 elected Members of Parliament; the President is required to consult Parliament before declaring a state of emergency; and a state of emergency is to be terminated seven days following the election of a new President. The House of Chiefs was abolished and is to be replaced by a House of Representatives which would include elected chiefs but also other special interest groups. The powers of the House of Representatives are still undefined but are a subject of the constitutional review.

15. The growing power of Parliament in national life can be seen from a recent censure of the President when he appointed the Solicitor-General and made the Minister of Justice to also hold the office of Attorney-General. Both appointments were objected to by Parliament because they were not ratified by it. When the proposed candidates were referred to Parliament, the candidature of the Solicitor-General was accepted, but Parliament rejected that of the Attorney-General on grounds that there was a veiled attempt by the President to appendage an institution that is meant to uphold the law to the executive branch of the Government. This is despite that the proposed candidate, Dr. Roger Chongwe, is a renowned human rights campaigner and was even Chairman of the African Bar Association. Another candidate was proposed by the President and Parliament endorsed him. There have been calls by Parliament that all Cabinet Ministers and other senior government officials be subject to Parliamentary approval in any future constitution.

IV. ADMINISTRATION OF JUSTICE

16. The courts act as the main human rights guarantor but are supported by three other bodies: the Commission of Investigation, the Anti-Corruption Commission and the Industrial Relations Court.

17. During the transition to multi-party democracy, the Zambian judiciary demonstrated its independence from the political leadership through some critical judgements that affirmed basic human rights including freedom of expression and association. In February 1991, the High Court ruled against Government bans on media coverage of the opposition. As a result of this ruling, coverage in the Government and UNIP-owned newspapers increased and private newspapers and magazines emerged. In September, a decision forced the Zambia National Broadcasting Corporation to screen opposition advertisements. Also important was the Supreme Court decision that UNIP could not force UNIP Members of Parliament to resign if they changed their party affiliation.

18. Under article 93 of the Constitution, the President appoints the Chief Justice and four judges of the Supreme Court. Similarly, the President appoints the 13 High Court Judges on the advice of the Judicial Service Commission (which comprises the Attorney-General, Chief Justice, Secretary to the Cabinet, Chairman of the Public Service Commission and one other member). A departure from the past is that now these appointments are subject to ratification by the National Assembly while under Kaunda's rule they were the prerogative of the President alone. This practice had led to criticism that the President's power to appoint and transfer judges, was an indirect way of determining the outcome of trials.

19. The office of the Supreme Court and High Court Judge cannot be abolished while occupied. However, judges can be removed from office on grounds of inability to perform their functions and misbehaviour after an investigation by a tribunal composed of judges and former judges. The recommendations of the tribunal are binding on the President.

20. All accused persons have a right to legal representation either of their choice or provided for by the State under the Legal Aid Act. State assistance to accused persons has in the past not been sufficient as a majority of Legal Counsellors leave the department due to low pay and poor conditions of service. The Zambian Bar has instituted a system to supplement Government legal aid. This is an area where the Government would appreciate immediate technical assistance from the United Nations Commission on Human Rights for a general educational programme aimed at improving the awareness of both the police and the public as to their rights and limitations.

A. Supportive structures

21. The Commission of Investigation was set up in 1974 upon recommendation by the National Commission for the establishment of a One Party State as the principal organ to protect human rights in the country. It is headed by a Commissioner and its six-member committee is appointed in consultation with the Judicial Service Commission which is a semi-autonomous body. It is charged with dealing with complaints lodged with the President by individuals

or groups. It handles complaints related to discrimination or bias, such as tribalism, nepotism, favouritism, abuse of power, incompetence and unreasonable delay.

22. The Commission is vested with wide investigatory powers and its investigations are always in camera. When the Commission is satisfied that a felony has been committed, a report with recommendations is submitted to the President for a decision and action. The President communicates his decision to the individual or institution involved and to the complainant. Its recommendations are not binding on the President.

23. The weakness of the Commission in the past was that its right to initiate investigations depended on the President and the recommendations made to him were not binding. Our experience showed the President rarely acted on these recommendations. While in opposition, the Chairman of the MDD Legal Committee, now Vice-President, Hon. Levy Mwanawasa, suggested that such organs should come under the office of the Attorney-General that should be funded independently. This recommendation was adopted. The operative clause in the present Constitution regarding the Attorney-General's powers (art. 52, clause 4) is that the Attorney-General is not bound by any authority in the issuance of directives to the Director of Public Prosecutions for prosecution. The Attorney-General cannot hold a rank less than that of a High Court Judge.

B. Implementation of human rights

24. The main institution for redressing human rights abuses and interpreting the constitution is the High Court of Zambia. An appellant has the right of appeal to the Supreme Court if he deems he has been adjudged unfairly. Subordinate courts do not deal with human rights matters.

25. The High Court has therefore the ultimate burden of interpreting and elaborating human rights provisions. The implementation of human rights provisions does not require recourse to extra legislation or an intermediate body. A distinction must however be made between categories of human rights matters for which a tribunal appointed by the President is provided for and those for which redress is sought directly from the courts. With matters arising in the course of duty in the civil service, such as matters related to corruption, nepotism, unreasonable delay, tribalism and the like, there is a constitutional provision for a Presidential tribunal to be appointed. The tribunal must constitute members of the Law Commission which is a semi-autonomous body. The recommendations of the tribunal which is held in camera are not binding on the President but he is obliged to inform the aggrieved party of the findings of the tribunal and his opinion.

26. Redress may also be sought from international organizations to which Zambia is a signatory. This remedy is available in the area of civil and political rights but also in matters related to foreign investment. In cases of dispute with the Government, investors have legal recourse to a special arbitration body or to the High Court of Zambia, and beyond that to the International Centre for the Settlement of Investment Disputes (ICSID), the United Nations Commission on International Trade Law and any other machinery agreed to by the parties involved.

C. Information and publicity

27. The main avenue through which human rights are publicised still remains the press. The press is supported in this endeavour by Parliament, special interest groups and the teaching of civics in secondary schools.

28. During the campaign for elections to usher in the Third Republic, the High Court of Zambia made a historical judgement compelling the mass media to publish campaign advertisements by the opposition parties. This ruling, apart from demonstrating the independence of the judiciary, led to a relatively free press and saw the emergence of new newspapers and magazines. This development was followed by legislation in Parliament enshrining freedom of the press in the Constitution. Due to the High Court ruling and enabling legislation, the press is relatively free in Zambia and has been in the forefront of exposing human rights abuses and corruption in society.

29. Parliament has played its role in bringing to public attention abuses of authority and human rights in Zambia. Since the opposition is relatively weak (24 per cent of the seats) complaints about human rights abuses are also raised by Members of Parliament belonging to the ruling party. To indicate a measure of the role of Parliament in publicizing human rights abuses, recently, the Government, as a result of parliamentary intervention, was forced to promise Parliament that it would set up a tribunal to investigate the incidence of suspects having died in police custody, which it was felt was becoming frequent.

30. Since the advent of the Third Republic, several interest groups who champion human rights in Zambia have emerged. Of particular notice is the Law Association of Zambia Human Rights Committee (LAZHRC), and the Women's Lobby. LAZHRC has been particularly active in the defence of human rights through its representation to Government in this area, offering free counsel and legal aid where an aggrieved seeks redress from a Court of Law. They also hold frequent seminars and act as monitors in national and local elections to ensure impartiality in the electoral process. The LAZHRC has envisioned an ambitious project to disseminate information to the public and security forces alike. To this end they have sent a proposal to the Centre for Human Rights for possible funding to allow them to begin work. The Women's Lobby is engaged in making women aware of their political and civil rights. They hold frequent seminars including meetings at markets. They also aim to have fair representation in the Government. To that end, they support female candidates in campaigns in the event of an election, which has been quite successful.

31. Civics is taught in secondary schools as a compulsory subject. The subject teaches the general framework of politics and the rights and the obligations of citizens. Pupils are also made conversant with the various United Nations human rights instruments to which Zambia is a signatory.